## UNITED STATES BANKRUPTCY COURT DISTRICT OF SOUTH DAKOTA

Case No. 13-10118
In re: : (Chapter 11)

NORTHERN BEEF PACKERS LIMITED PARTNERSHIP, Tax ID/EIN: 26-2530200,

Debtor.

 $0 \hbox{-} 0 \hbox{-}$ 

## STIPULATION BETWEEN WHITE OAK GLOBAL ADVISORS, LLC AND SCOTT OLSON DIGGING, INC. FOR PARTIAL RELEASE OF ESCROW FUNDS

White Oak Global Advisors, LLC ("White Oak") and Scott Olson Digging, Inc. ("Scott Olson") by and through their respective attorneys of record, stipulate as follows:

- 1. White Oak filed a Motion for Approval of Settlements of Objections to White Oak's Escrow Motion ("Motion") (Doc. 735) on or about January 20, 2014.
- 2. A Stipulation between White Oak and Scott Olson ("Stipulation") was attached to the Motion as Exhibit 2. The Stipulation contemplates, among other things, that White Oak deposit into a dedicated escrow account the sum of \$3,500,000.00 designated as the Olson Digging Escrow Payment ("Escrow"). (See paragraph 3 of the Stipulation.)
- 3. The purpose of the Escrow was to bond off Scott Olson's mechanic's lien from the real estate described in attached Exhibit A.

4. Ultimately, the Escrow was funded through a deposit into a Woods, Fuller, Shultz & Smith P.C. ("Woods Fuller") trust account maintained at Dacotah Bank in Sioux Falls, SD, in the amount of \$3.5 million. The account statement for October 15, 2014, is attached as Exhibit B.

- 5. The Court entered an Order Re: White Oak Global Advisors, LLC's Motion for Approval of Settlements of Certain Objections to White Oak's Escrow Motion (the "Order") (Doc. 770) on or about February 4, 2014.
- 6. The Order, among other things, specifically requires that any withdrawals from the Escrow be made only pursuant to an Order of the bankruptcy court.
- 7. The validity, priority and extent of Scott Olson's lien/claim was ultimately tried to the bankruptcy court in May of 2014.
- 8. The Court entered an Amended Decision re: Claim of Scott Olson Digging, Inc. (Doc. 328 in Adversary No. 13-1016) on or about September 22, 2014, holding that Scott Olson had a claim in the amount of \$ 205,104.07, but left open the issue of interest and attorney's fees pending additional proceedings. Subsequently, the Court held on November 6, 2014, that Scott Olson was entitled to pre-petition interest of \$109,014.22. Post-petition interest and attorney's fees remain before the Court.
- 9. Given the bankruptcy court's decisions, White Oak and Scott Olson agree that the sum of \$900,000.00 shall remain in the escrow and the balance of the funds in the

2

account may be distributed to White Oak. Woods Fuller is authorized to immediately wire the released funds to White Oak.

- 10. This partial release of Escrow funds only affects the rights of White Oak and Scott Olson and no other parties to the bankruptcy, including any pending adversaries.
- This Stipulation is without prejudice to White Oak requesting additional 11. escrow releases by stipulation or by motion and further does not waive any objections that Scott Olson might ultimately have to such future requests.

## WHITE OAK GLOBAL ADVISORS, LLC

WOODS, FULLER, SHULTZ & SMITH P.C.

Dated: November 18, 2014

Roger W. Damgaard (#340)

300 South Phillips Avenue, Suite 300

Post Office Box 5027

Sioux Falls, South Dakota 57117-5027

Telephone (605) 336-3890

Fax No. (605) 339-3357

E-mail: Roger.Damgaard@woodsfuller.com

and

Stephen Richard Tetro II (admitted pro hac vice) Mark D. Rasmussen (admitted pro hac vice)

CHAPMAN AND CUTLER LLP

111 W. Monroe Street

Chicago, IL 60603

Telephone: (312) 845-3000

Fax No.: (312) 845-2361

E-mail: stetro@chapman.com

mark.rasmussen@chapman.com

Attorneys for White Oak Global Advisors, LLC

## SCOTT OLSON DIGGING, INC.

Dated: November /3, 2014

Gary W. Schumacher Wilkinson & Wilkinson 103 Joliet Avenue SE Post Office Box 29

De Smet, South Dakota 57231 Telephone: (605) 854-3378 Facsimile: (605) 854-9006 Email: gary@wslawfirm.net

and

Clair R. Gerry Gerry & Kulm Ask, Prof. LLC 507 W. 10<sup>th</sup> Street Post Office Box 966 Sioux Falls, South Dakota 57101-0966

Telephone: (605) 336-6400 Facsimile: (605) 336-6842 Email: gerry@sgsllc.com

Attorneys for Scott Olson Digging, Inc.